UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

AERITAS, LLC, Plaintiff v. **OFFICE DEPOT, LLC,** Defendant	**Case No. 6:22-cv-00986** **JURY TRIAL DEMANDED** **RELATED CASE**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Aeritas, LLC ("Aeritas" or "Plaintiff") files this Complaint for patent infringement against Office Depot, LLC ("Office Depot" or "Defendant"), and alleges as follows:

NOTICE OF RELATED CASES

This case is related to the following active cases:

- *Aeritas, LLC v. WestJet Airlines, Ltd*, No. 6:20-cv-01161-ADA; and

- *Aeritas, LLC v. Staples, Inc.*, No. 6:22-cv-00985

NATURE OF THE ACTION

1.   This is an action for patent infringement arising under 35 U.S.C. § 1 *et seq*.

PARTIES

2.   Aeritas is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business in Dallas, Texas.

3.   Upon information and belief, Defendant is a limited liability company organized and existing under the laws of the State of Delaware, and has a regular and established place of business at 5524 Bosque Blvd, Waco, Texas 76710.

JURISDICTION AND VENUE

4.   This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5.   Upon information and belief, Defendant is subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

6.   Venue is proper in this judicial district under 28 U.S.C. §1400(b) because Defendant has committed acts of patent infringement in this District and has a regular and established place of business in this District. Specifically, Defendant has a regular and established place of business at 5524 Bosque Blvd, Waco, Texas 76710. In addition, Aeritas has suffered harm in this District.
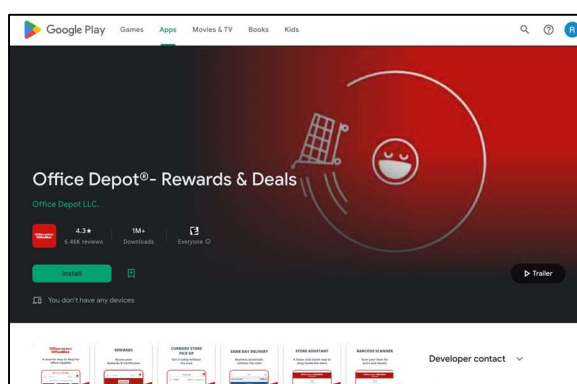
OVERVIEW OF THE OFFICE DEPOT APP

7.   Defendant provides for its customers' use the Office Depot App, which is available for use with iOS and Android devices:


https://www.officedepot.com/
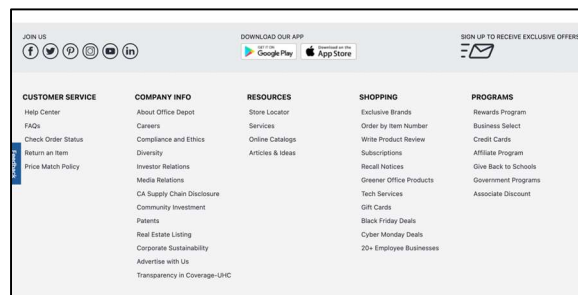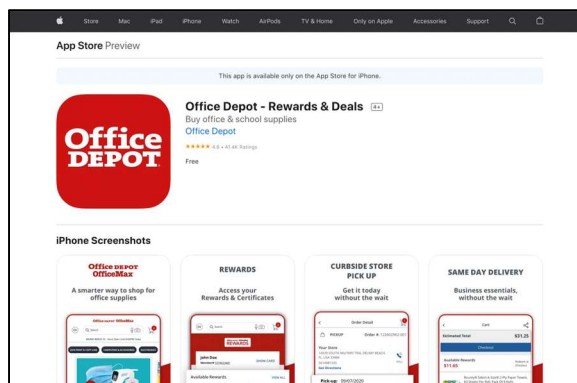
https://apps.apple.com/us/app/office-depot/id382457983?cm_sp=FooterLinks-_-MobileApp-_-AppleIOS

https://play.google.com/store/apps/details?id=com.officedepot.mobile.ui&feature=search_result

&cm_sp=FooterLinks-_-MobileApp-_-Android

8.   To enable use of the enhanced features of the Office Depot App, a Office Depot server asks for permission to access the mobile device's location to determine the location of the user's device (e.g., upon receiving GPS coordinates from the mobile device) and will identify the closest Office Depot to the mobile device:
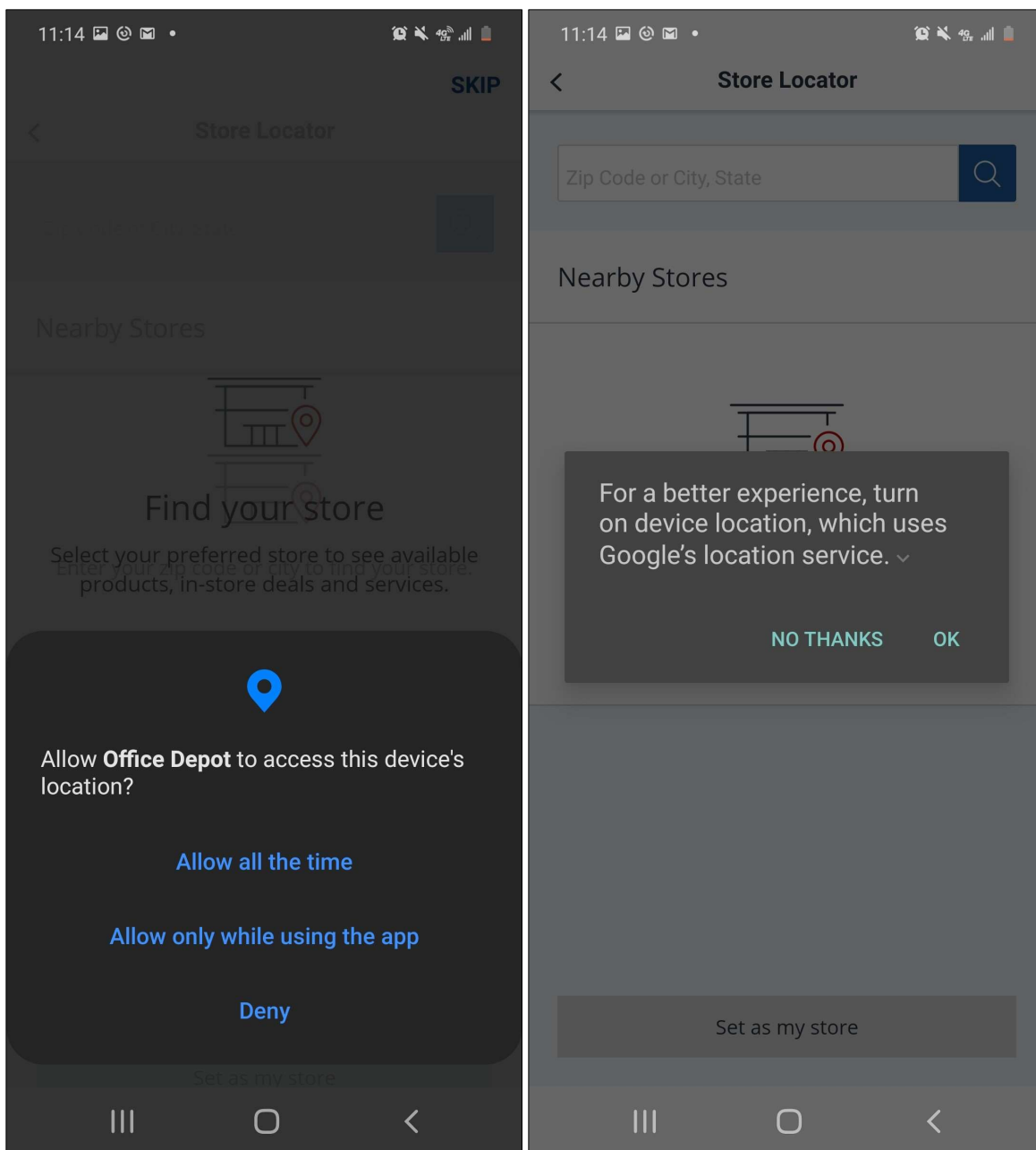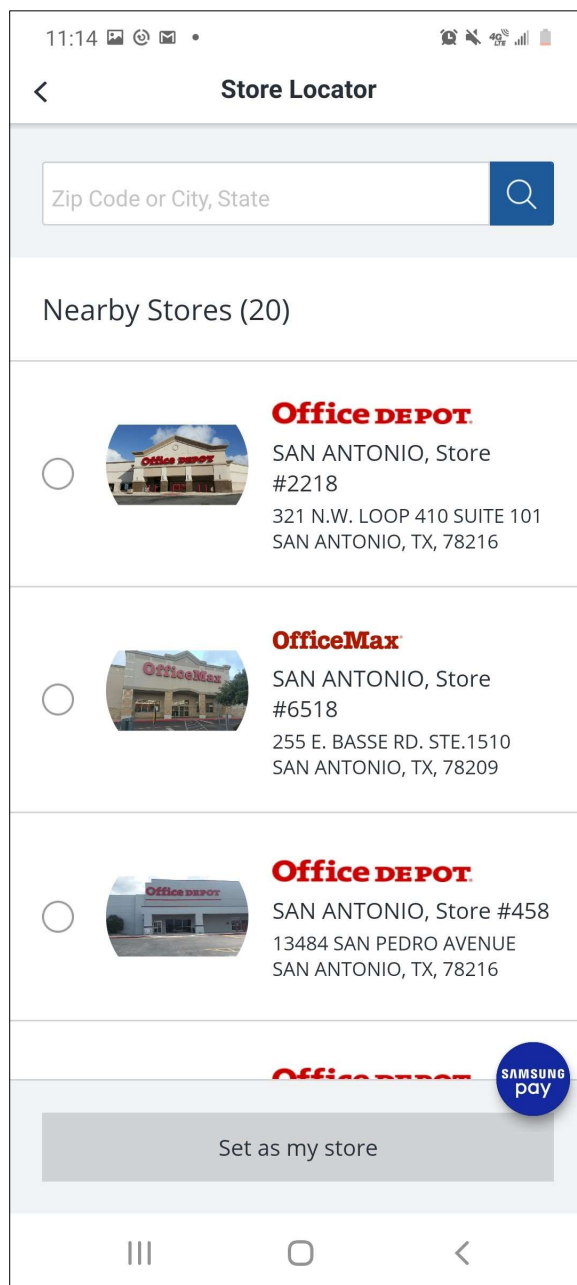
(Screenshots from Office Depot mobile application)

9.   When a user of the Office Depot App on an Android smartphone searches for a particular location using their voice, Office Depot receives spoken input from a wireless communication device.
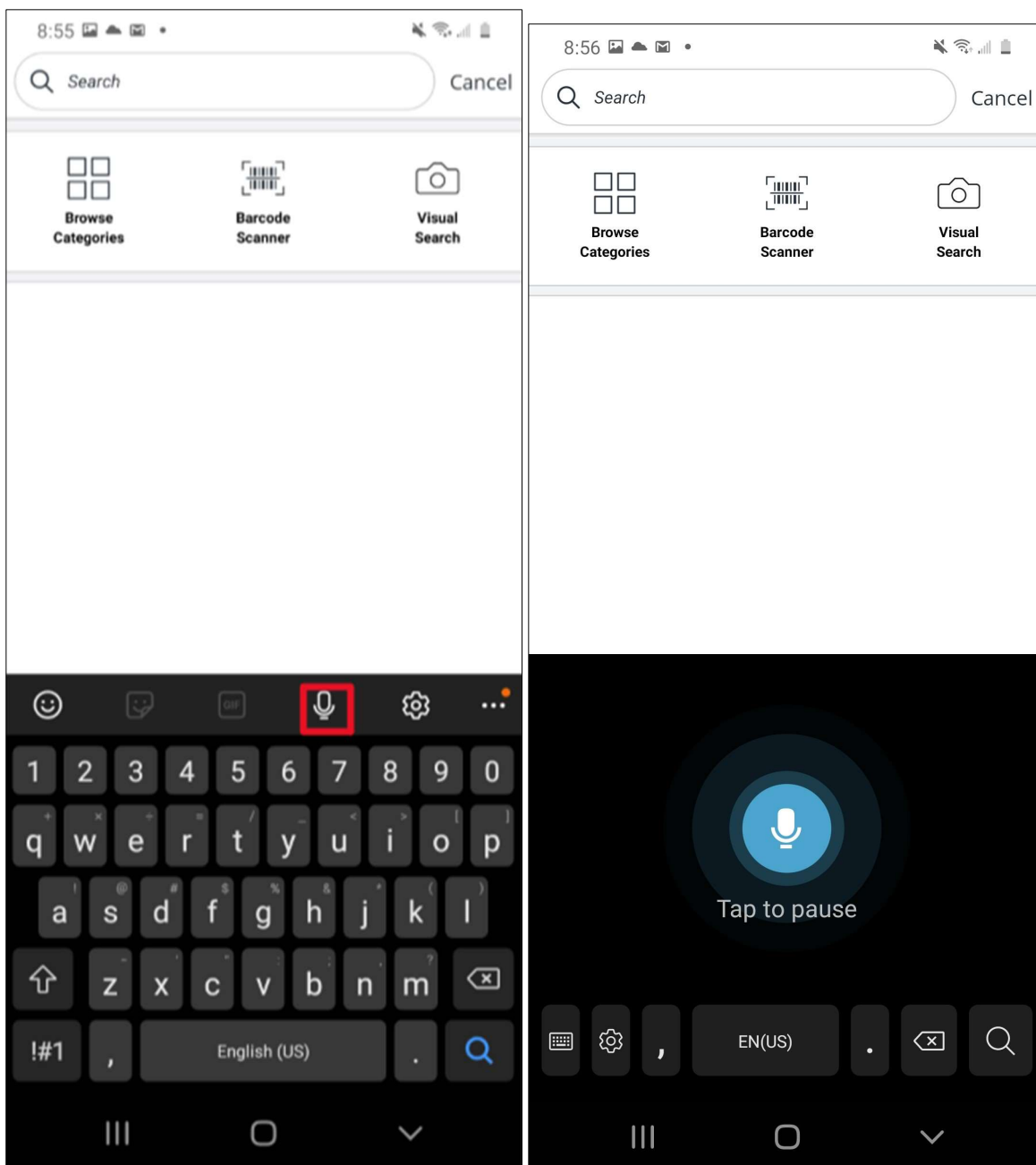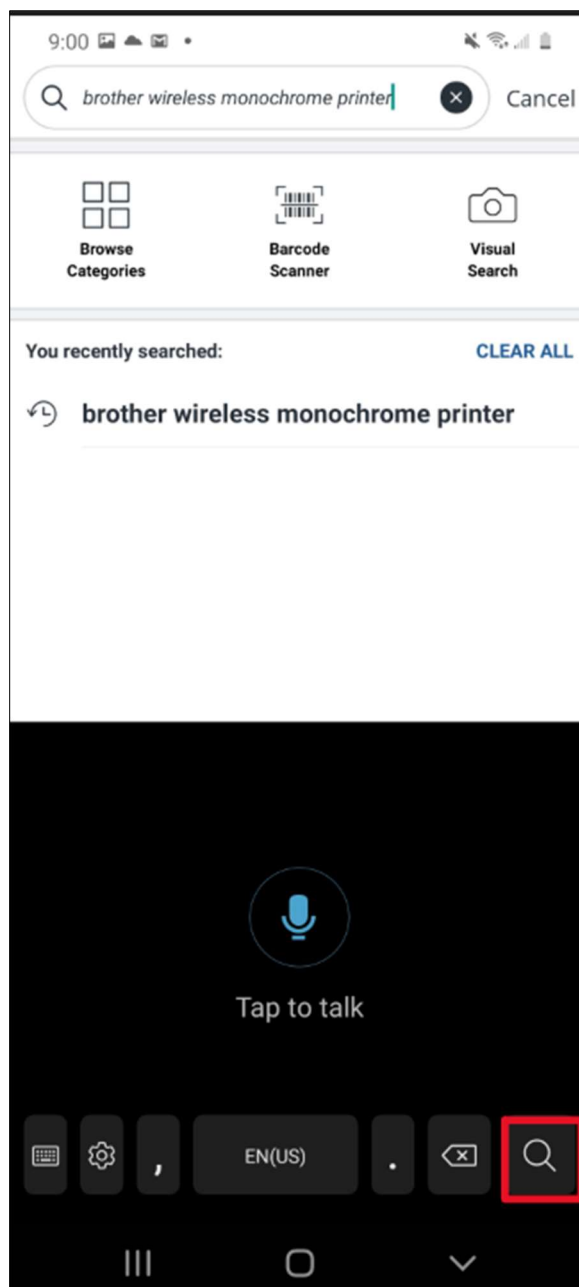
(Screenshots from the Office Depot mobile application showing the process of using spoken input within the app)

10.   An Office Depot notification server delivers a non-verbal response to the spoken input (product page), including a drill down menu in the form of a "Find Nearby" link.
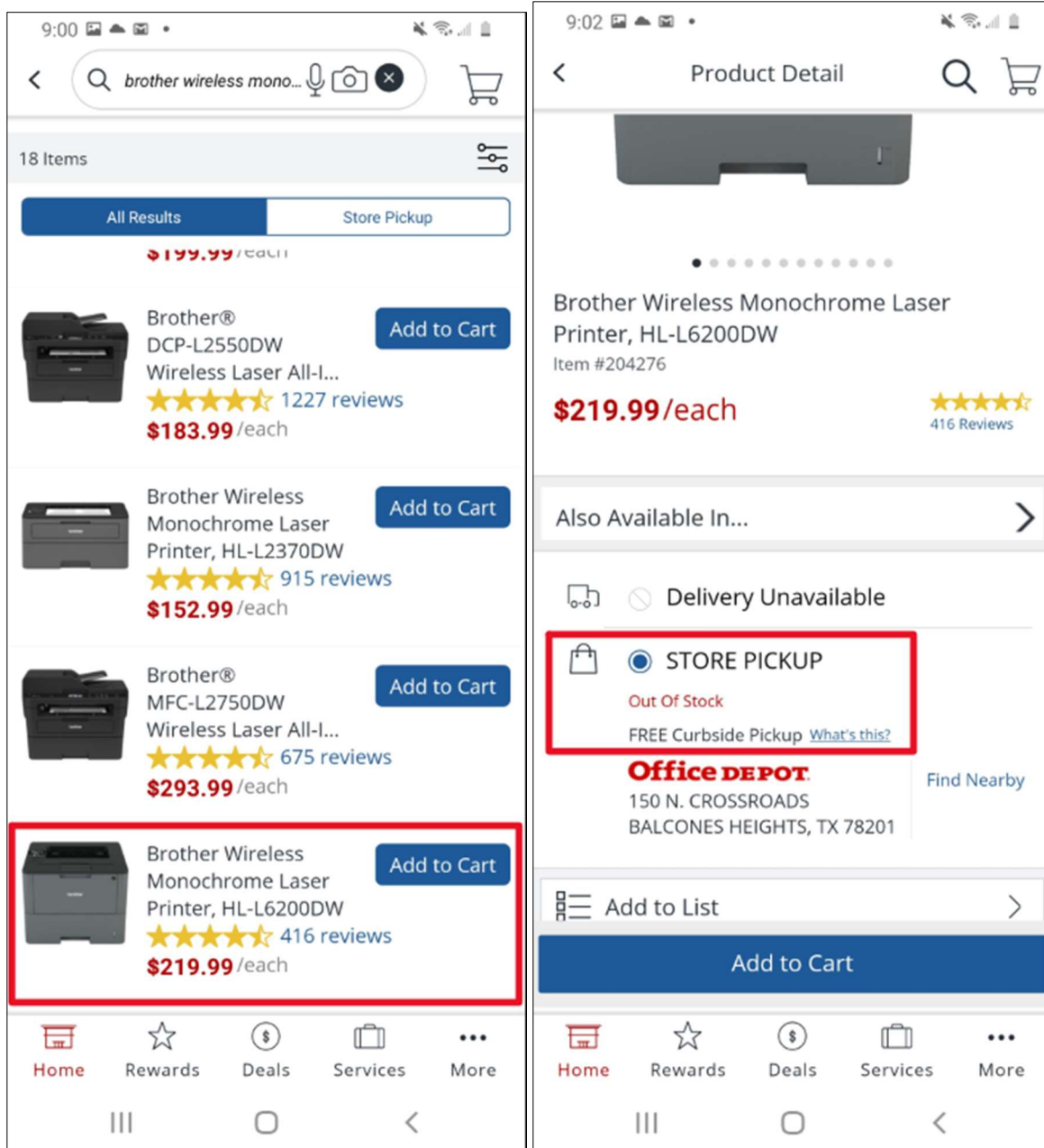
(Screenshot from Office Depot mobile application)

11.   An Office Depot server provides additional information related to the retrieved information (store information) in response to receipt of at least one additional input provided via the drill-down menu.
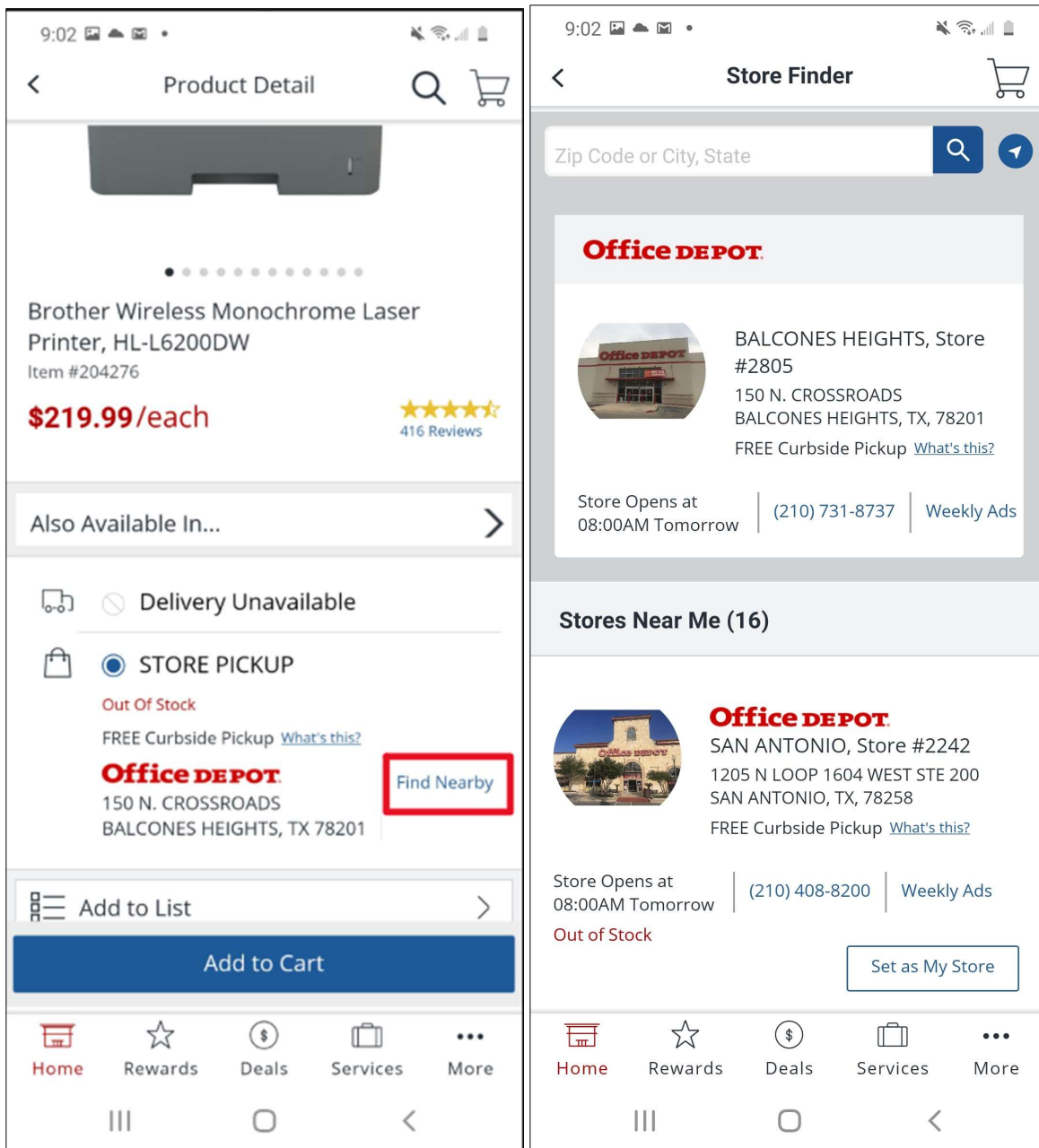
(Screenshot from Office Depot mobile application)

12.   Office Depot receives and stores consumer interest data (e.g., specific Office Depot locations can be favorites and are saved in the user's profile).
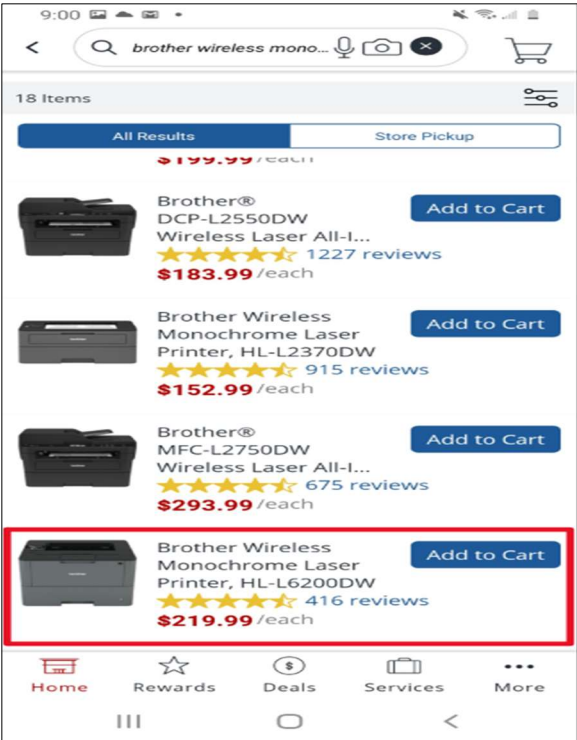
(Screenshot from Office Depot mobile application)

The Best Buy Android app lets you quickly and easily shop for thousands of high quality electronics and accessories, and get those products shipped promptly to your home or to a store near you for convenient pick-up. Locate any of our 1,400+ stores using the app. When in a store, use your phone's camera to scan bar codes to get more info about products. It's easy to use the app to check order status and view past purchases, create a wish list or wedding registry, and stay up on the weekly and daily deals on a wide variety of electronics and accessories. Looking to upgrade or trade in older electronics? Find trade-in values for your old electronics using the app!

https://play.google.com/store/apps/details?id=com.bestbuy.android

13.   Office Depot receives results from the search (store information, whether or not products are in stock, etc.) and delivers that information to the mobile device.
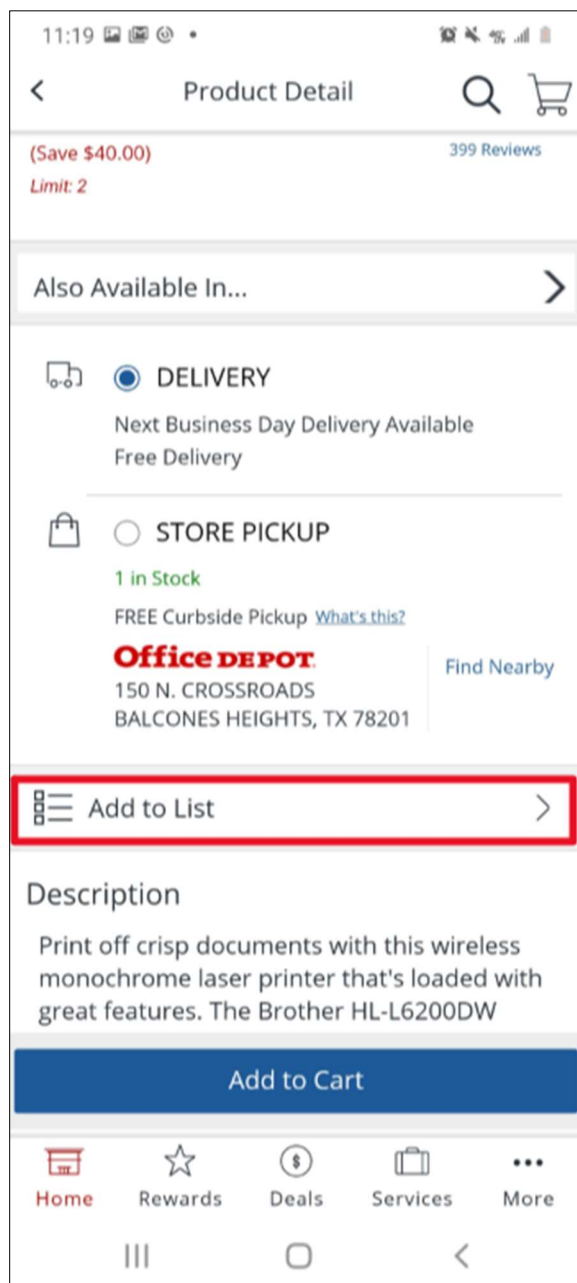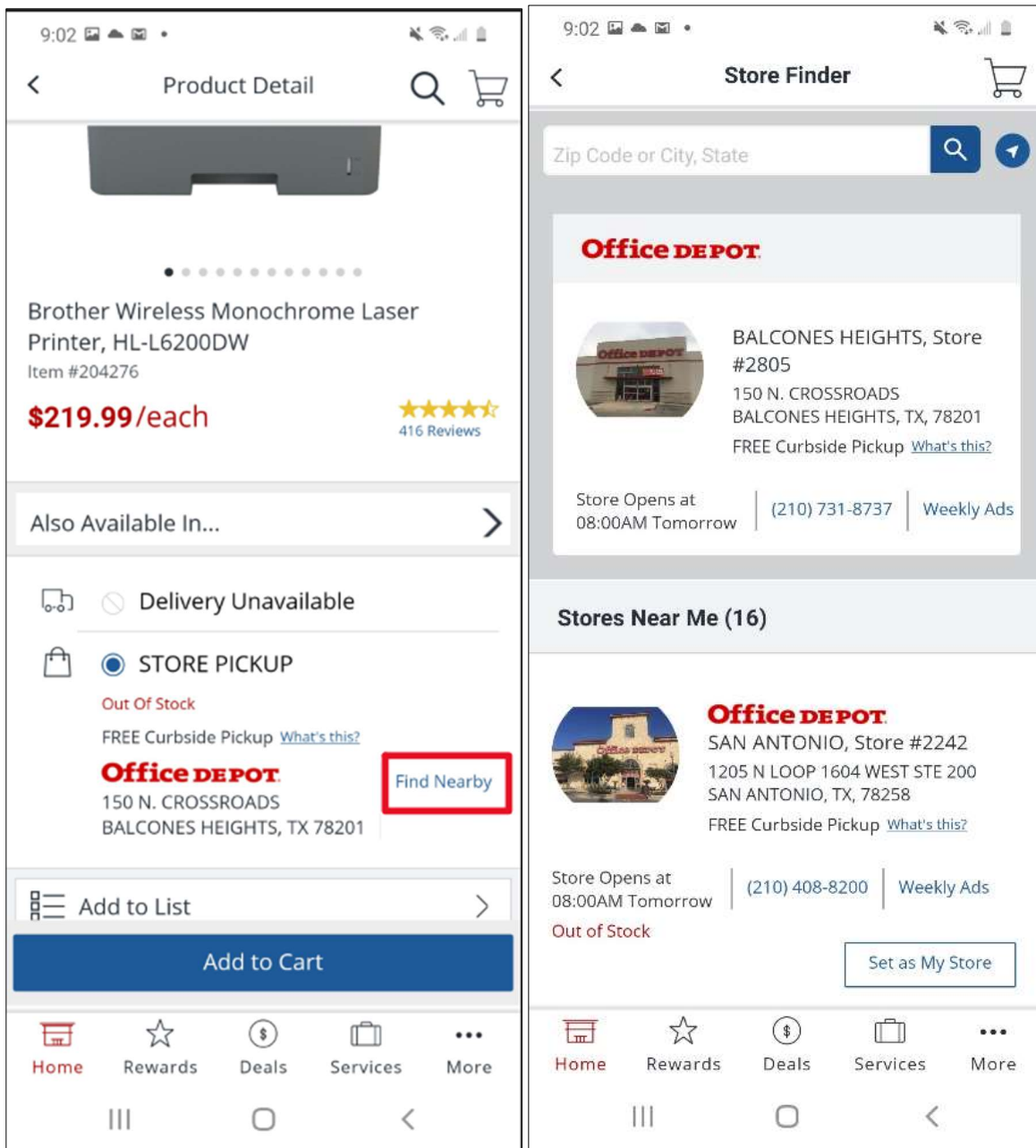

(Screenshot from Office Depot mobile application)

14.   The Office Depot app includes notification criteria that define when notifications are to be delivered to the mobile communications device and a type of notification (at least push vs in-app notifications).
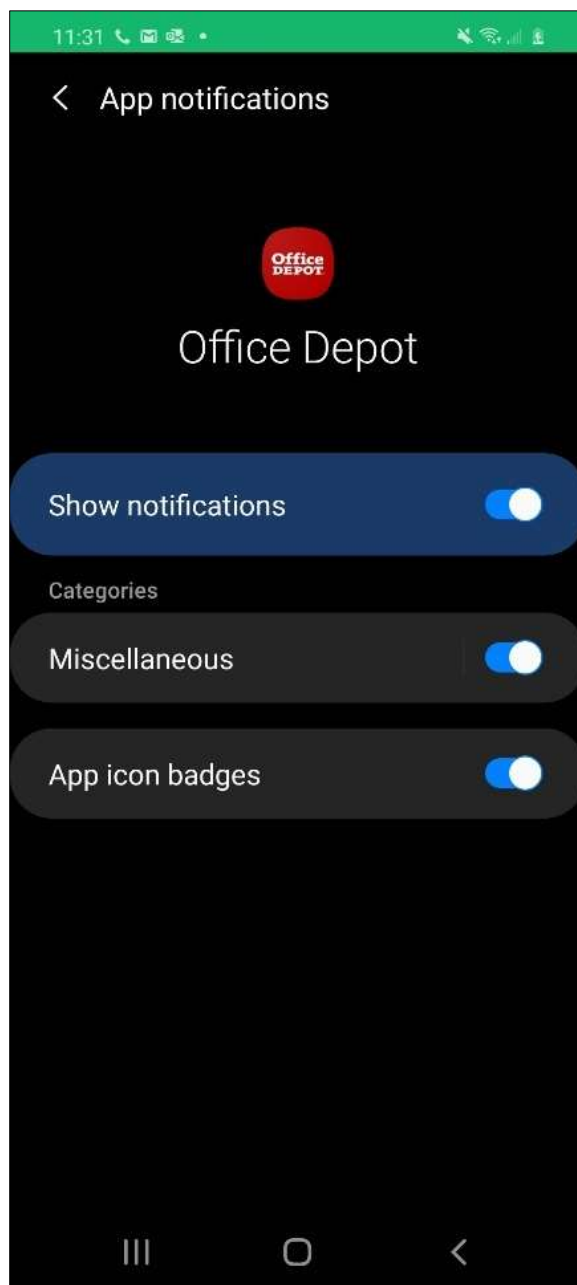
(Screenshot from Office Depot mobile application)

15.   The Office Depot app generates messages for delivery to the mobile communication device if at least one matching rule in the rules engine is triggered (i.e. message indicating an item is not available for in-store pick up at a particular store but is available at another nearby location).
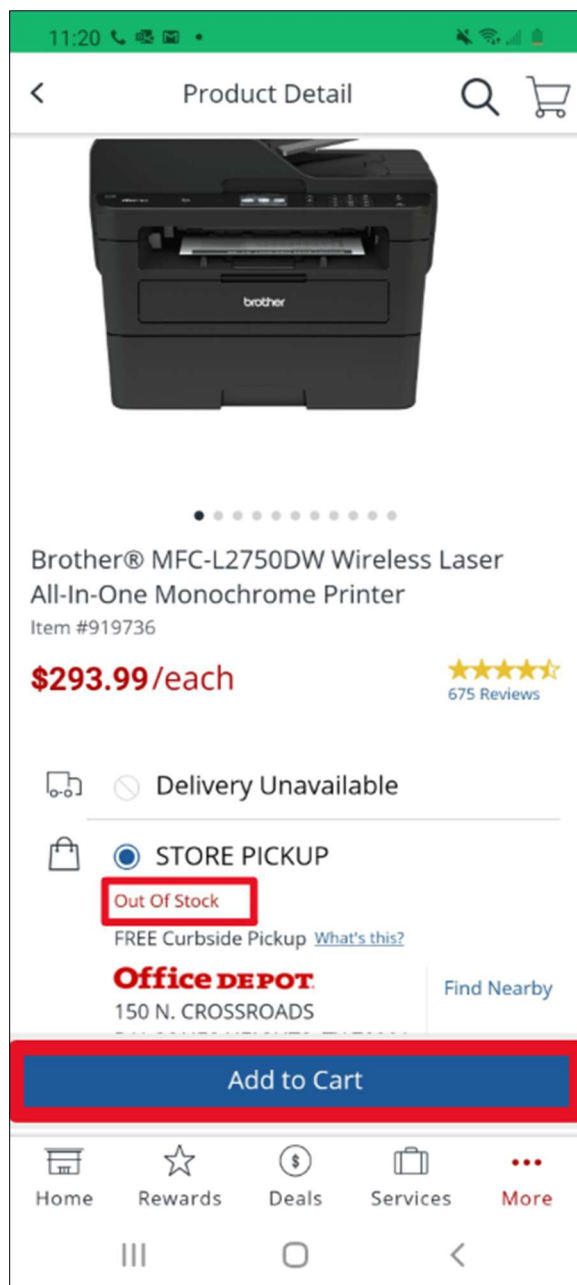
(Screenshot from Office Depot mobile application)

COUNT I
(Infringement of U.S. Patent No. 7,706,819)

16.   Aeritas incorporates paragraphs 1 through 15 as though fully set forth herein.

17.   Plaintiff is the owner, by assignment, of U.S. Patent No. 7,706,819 (the "'819

Patent"), entitled MIXED-MODE INTERACTION, which issued on April 27, 2010.

18.   The '819 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

19.   Defendant has been and is now infringing one or more claims of the '819 Patent under 35 U.S.C. § 271 by making and using the Office Depot App with users' iOS and Android devices and the Office Depot server in the United States without authority.

20.   Defendant, Office Depot, has also infringed the '819 Patent by encouraging users of the Office Depot App to use the user's iOS or Android devices with the Office Depot App to practice the claims of the '819 Patent.

21.   Claim 1 recites:

1.   A method comprising:

receiving spoken input from a wireless communication device;

obtaining data identifying a current location of the wireless communication device;

based on the current location of the wireless communication device and the spoken input, retrieving information;

delivering, to the wireless communication device by a notification server, a non-verbal response to the spoken input, the non-verbal response based on the retrieved information and including a drill-down menu by which additional information related to the retrieved information can be obtained; and

providing additional information related to the retrieved information in response to receipt of at least one additional input provided via the drill-down menu.

22.   More particularly, Defendant infringes at least claim 1 of the '819 Patent. Defendant receives spoken input from a wireless communication device (e.g., when a user searches for a location or specific store using voice input). Defendant obtains data identifying the current location of the mobile device (e.g., as evidenced by permissions required to access the device's location and subsequent provision of location-based information and the location of the device on a search result map). Based on the location and the spoken input, Defendant retrieves information (e.g., the nearby availability of stores subject to the voice search). Defendant delivers to the wireless device by a notification server, a non-verbal response to the spoken input, the non-verbal response based on the retrieved information and including a drill-down menu by which additional information related to the retrieved information can be obtained (e.g., the nearby stores subject to the voice search, distance to mobile device). Defendant provides additional information related to the retrieved information in response to receipt of at least one additional input provided via the drill-down menu (e.g., distance and other information about nearby stores in response to selection of the "Change Store" link).

23.   Aeritas has been damaged by Defendant's infringing activities.

COUNT II
(Infringement of U.S. Patent No. 8,055,285)

24.   Aeritas incorporates paragraphs 1 through 15 as though fully set forth herein.

25.   Plaintiff is the owner, by assignment, of U.S. Patent No. 8,055,285 (the "'285 Patent"), entitled MIXED-MODE INTERACTION, which issued on November 8, 2011.

26.   The '285 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

27.   Defendant has been and is now infringing one or more claims of the '285 Patent

under 35 U.S.C. § 271 by making and using the Office Depot App with users' iOS and Android

devices and the Office Depot server in the United States without authority.

28.   Defendant, Office Depot, has also infringed the '285 Patent by encouraging users

of the Office Depot App to use the user's iOS or Android devices with the Office Depot App to

practice the claims of the '285 Patent. Defendant has notice of the '285 Patent at least as of the

date of service of this complaint.

29.   Claim 1 recites:

1.   A method, comprising:

at a first time, receiving and storing an input in a user profile in a database,

the input comprising consumer interest data;

at a second time distinct from the first time, obtaining data identifying a

current location of the mobile communication device;

based on the input stored in the user profile and the current location of the

mobile communication device, initiating a search to locate

information pertinent to the input;

receiving results derived from the search; and

in response to the input and the search, delivering, by a notification server,

information to the mobile communications device.

30.   More particularly, Defendant infringes at least claim 1 of the '285 Patent.

Defendant receives and stores an input in a user profile in a database, the input comprising

consumer interest data. At a second time, data identifying a current location of the mobile

communications device on which the Accused Instrumentality is installed is obtained. Based on

the input and location, Defendant performs a search to locate pertinent information (e.g., nearby stores) and receive the results of such search, distance from mobile device. Defendant then provides the information to the mobile communications device.

31.   Aeritas has been damaged by Defendant's infringing activities.

COUNT III
(INFRINGMENT OF U.S. PATENT NO. 8,620,364)

32.   Aeritas incorporates paragraphs 1 through 15 as though fully set forth herein.

33.   Plaintiff is the owner, by assignment, of U.S. Patent No. 8,620,364 (the "'364 Patent"), entitled MIXED-MODE INTERACTION, which issued on December 31, 2013.

34.   The '364 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

35.   Defendant has been and is now infringing one or more claims of the '364 Patent under 35 U.S.C. § 271 by making and using the Office Depot App with users' iOS and Android devices and the servers in the United States without authority.

36.   Defendant has also infringed the '364 Patent by encouraging users of the Office Depot App to use the user's iOS or Android devices with the Office Depot App to practice the claims of the '364 Patent. Defendant has notice of the '364 Patent at least as of the date of service of this complaint.

37.   Claim 1 recites:

1.   Apparatus, comprising:

a processor;

computer memory holding computer program instructions to:

execute a rules engine that correlates data identifying a location of a mobile communication device, consumer interest data associated

with one or more inventory attributes, and notification criteria that

defines when a notification is to be delivered to the mobile

communications device and a type of such notification, and to

generate a message for delivery to the mobile communication

device if at least one matching rule in the rules engine is triggered

and the notification criteria are met, the message identifying one or

more suppliers in the location with inventory that a user of the

mobile communication device has expressed an interest in as

indicated by the consumer interest data; and

computer memory holding computer program instructions executed by the

processor to selectively deliver the message to the mobile

communications device according to the notification criteria.

38.   More particularly, Defendant infringes at least claim 1 of the '364 Patent. On

information and belief, Defendant employs a processor and computer memory holding computer

program instructions to perform the functions described herein. Defendant receives information

indicating that the user has provided permission to provide notifications to the user. Defendant

asks for permission to obtain the user's location and obtains the user's location if permission is

granted. When location access is granted, the Defendant obtains the user's location. Defendant

stores consumer interest items such as items in a shopping cart. Defendant stores data associated

with available inventory, such as whether an item is in stock at a store, etc. Defendant stores

notification criteria to define when notifications are to be delivered to the user including the type

of notification. Defendant utilizes a rules engine to evaluate when notification criteria are met. If

the notification criteria are met, Defendant generates a message to be delivered to the user. The message alerts the user that the item is in stock at nearby locations.

39.   Aeritas has been damaged by Defendant's infringing activities.

COUNT IV
(INFRINGMENT OF U.S. PATENT No. 9,888,107)

40.   Aeritas incorporates paragraphs 1 through 15 as though fully set forth herein.

41.   Plaintiff is the owner, by assignment, of U.S. Patent No. 9,888,107 (the "'107 Patent"), entitled MIXED-MODE INTERACTION, which issued on February 6, 2018.

42.   The '107 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

43.   Defendant has been and is now infringing one or more claims of the '107 Patent under 35 U.S.C. § 271 by making and using the Office Depot App with users' iOS and Android devices and the Office Depot servers in the United States without authority.

44.   Defendant has also infringed the '107 Patent by encouraging users of the Office Depot App to use the user's iOS or Android devices with the Office Depot App to practice the claims of the '107 Patent.

45.   Claim 5 recites:

5.   Apparatus, comprising:

a processor;

computer memory holding computer program instructions to receive first data indicating a permission to provide a mobile device user a notification, the notification having an associated notification criteria;

at a given time, determine a location of a mobile device;

based at least in part on a determined location of the mobile device and the

notification criteria, to provide to the mobile device the notification,

the notification being associated at the mobile device with one of:

an audible, visual and tactile alert;

receive second data as a result of an input being received at the mobile

device following the notification;

retrieve information associated with the input and the determined location

of the mobile device; and

provide to the mobile device a response to the input, the response based on

the retrieved information; wherein the computer program

instructions comprise a rules engine that comprises first and second

components, a first component that evaluates the notification

criteria, and a second component that executes notifications rules.

46.   More particularly, Defendant infringes at least claim 5 of the '107 Patent. On information and belief, Defendant employs a processor with computer memory that holds computer program instructions to perform the functions described above. Defendant receives data indicating permission to provide a notification to a mobile device user in accordance with notification criteria. Defendant asks for permission to obtain the user's location and obtains the user's location if permission is granted. Based on the location and notification criteria, Defendant provides at least a visual alert notification. Defendant receives second data as a result of an input being received at the mobile device, retrieves information associated with the input and location, and provides responsive information to the mobile device (e.g., order prices based on store location). Upon user selecting a different store, Defendant receives a visual notification informing

the user of different pricing and availability. This notification is evidence of a rules engine that

evaluates notification criteria and sends only those notifications that conform to a rule set.

47.   Aeritas has been damaged by Defendant's infringing activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against

Defendant:

1.   declaring that the Defendant has infringed the '819, '285, '364 and the '107

Patents;

2.   awarding Plaintiff its damages suffered as a result of Defendant's infringement of

the '819, '285, '364 and the '107 Patents;

3.   awarding Plaintiff its costs, attorneys' fees, expenses, and interest; and

4.   granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: September 20, 2022   Respectfully submitted,

                                             /s/ Raymond W. Mort, III
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